

106TH CONGRESS
2D SESSION

H. R. 3615

[Report No. 106–508, Part I]

To amend the Rural Electrification Act of 1936 to ensure improved access to the signals of local television stations by multichannel video providers to all households which desire such service in unserved and underserved rural areas by December 31, 2006.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 10, 2000

Mr. GOODLATTE (for himself, Mr. BOUCHER, Mr. BAKER, Mrs. EMERSON, Mrs. CAPPS, Mrs. BONO, Mr. OBERSTAR, Mr. EWING, Mr. GILCHREST, Mr. METCALF, Mr. QUINN, Mr. BASS, Mr. LATHAM, Mr. KILDEE, Mr. PHELPS, Mr. MCINNIS, Mr. RAHALL, Mr. BUYER, Mr. WATKINS, Mr. FROST, Mr. BALDACCI, Mr. GOODE, Mr. PETERSON of Minnesota, Mr. HINCHEY, Mr. BOYD, Mr. WALDEN of Oregon, Mr. OLVER, Mr. FLETCHER, Mr. COLLINS, Mr. THORNBERRY, Mrs. CUBIN, Mr. NETHERCUTT, Mr. WICKER, Mr. LAHOOD, Mr. BOEHLERT, Mr. GOODLING, Mr. HERGER, Mr. NUSSLE, Mr. RADANOVICH, Mr. EHRLICH, Mr. HASTINGS of Washington, Mr. THUNE, Mr. COOKSEY, Mr. HILLEARY, Mrs. FOWLER, Mr. BONILLA, Mr. BALLENGER, Mr. SKEEN, Mr. SHIMKUS, Mr. PICKERING, Mr. ADERHOLT, Mr. SHERWOOD, Mr. UPTON, Mr. HAYES, Mr. PETERSON of Pennsylvania, Mr. SMITH of Texas, Mr. VITTER, Mr. JENKINS, Mr. TAUZIN, Mr. RILEY, Mr. CANADY of Florida, Mr. BARTLETT of Maryland, Mr. ISAKSON, Mr. CHAMBLISS, Mr. BARRETT of Nebraska, Mr. GANSKE, Mr. BISHOP, Mr. THOMAS, Mr. OXLEY, Mr. GOSS, Mr. JONES of North Carolina, Mr. DOOLITTLE, Mr. POMBO, Mr. WAMP, Mr. DUNCAN, Mr. NORWOOD, Mrs. CHENOWETH-HAGE, Mr. DAVIS of Virginia, Mr. DICKEY, Mr. EHLERS, Mr. LEWIS of Kentucky, Mr. WELLER, Mr. FOLEY, Mr. HUTCHINSON, Mr. SMITH of Michigan, Mr. GEKAS, Mr. HOUGHTON, Mr. REYNOLDS, Mr. PORTMAN, Mr. TRAFICANT, Mr. SCHAFFER, Mr. THOMPSON of California, Mr. MINGE, Mrs. CLAYTON, Mr. SHOWS, Mr. SISISKY, Mr. BRYANT, Mr. WALSH, Mr. MCHUGH, Mrs. JOHNSON of Connecticut, Mr. BEREUTER, Mr. ROGERS, Mr. FARR of California, Mr. KIND, and Mr. HILL of Montana) introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committees on Commerce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each

case for consideration of such provisions as fall within the jurisdiction of the committee concerned

MARCH 1, 2000

Additional sponsors: Mr. SANDLIN, Mr. POMEROY, Mr. BERRY, Mr. MORAN of Kansas, Mr. MORAN of Virginia, Mr. CRAMER, Mr. LUCAS of Oklahoma, Mr. GUTKNECHT, Mr. SIMPSON, Mr. STENHOLM, Mr. HOLDEN, Mr. BOSWELL, Mr. KLINK, and Mr. COBLE

MARCH 1, 2000

Reported from the Committee on Agriculture with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

MARCH 1, 2000

Referral to the Committees on Commerce and the Judiciary extended for a period ending not later than March 31, 2000

[For text of introduced bill, see copy of bill as introduced on February 10, 2000]

A BILL

To amend the Rural Electrification Act of 1936 to ensure improved access to the signals of local television stations by multichannel video providers to all households which desire such service in unserved and underserved rural areas by December 31, 2006.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Rural Local Broadcast*
5 *Signal Act”.*

6 **SEC. 2. FINDINGS.**

7 *Congress makes the following findings:*

8 *(1) In 1936, most of the rural United States did*
9 *not have access to electrical service enjoyed by the rest*

1 *of the United States, and this lack of electrical service*
2 *inhibited economic development in the rural areas of*
3 *the United States.*

4 *(2) In response to this lack of service, Congress*
5 *enacted the Rural Electrification Act of 1936 (also*
6 *known as the Norris-Rayburn Rural Electrification*
7 *Act) which established the Rural Electrification Ad-*
8 *ministration to ensure that all Americans have access*
9 *to electrical service and to promote rural development.*

10 *(3) The program under the Rural Electrification*
11 *Act of 1936 has successfully brought electricity to all*
12 *parts of the rural United States and has stimulated*
13 *rural development throughout the United States.*

14 *(4) In 1949, most of the rural United States did*
15 *not have access to telephone service enjoyed by the rest*
16 *of the United States, and this lack of telephone service*
17 *inhibited economic development in the rural areas of*
18 *the United States.*

19 *(5) In response to this lack of service, Congress*
20 *amended the Rural Electrification Act of 1936 to as-*
21 *sure that the rural United States has access to tele-*
22 *communications services, including telephone services,*
23 *distance learning, and telemedicine in order to pro-*
24 *mote rural development.*

1 (6) *The programs under these amendments have*
2 *successfully brought telecommunications to all parts*
3 *of the United States and has stimulated rural devel-*
4 *opment throughout the United States.*

5 (7) *Public Law 93–32 amended the Rural Elec-*
6 *trification Act of 1936 to establish a revolving fund*
7 *for insured and guaranteed loans.*

8 (8) *The reorganization of the Department of Ag-*
9 *riculture by Public Law 103–354 created the Rural*
10 *Utilities Service (RUS) within the Department of Ag-*
11 *riculture and assigned it the responsibility for admin-*
12 *istering programs under the Rural Electrification Act*
13 *of 1936.*

14 (9) *The Rural Utilities Service now manages a*
15 *portfolio of federally-guaranteed and direct loans in*
16 *excess of \$42,000,000,000.*

17 (10) *The Rural Utilities Service has granted*
18 *loans for the purpose of telecommunications services*
19 *to more than 800 borrowers, including telephone and*
20 *electricity cooperatives, in all States of the United*
21 *States.*

22 (11) *Local television coverage is vitally impor-*
23 *tant for rural development efforts.*

24 (12) *Local television programming broadcasts*
25 *crop reports, local news, weather reports, public serv-*

1 *ice announcements, and advertisements by local busi-*
2 *nesses, all of which are important for rural develop-*
3 *ment.*

4 (13) *In today's age of modern communications,*
5 *rural communities often receive the majority of their*
6 *information from satellite platforms.*

7 (14) *The rest of the United States, including*
8 *most of the rural United States, is not able to receive*
9 *local television signals via satellite.*

10 (15) *Without access to local television signals,*
11 *the development of the rural United States is greatly*
12 *inhibited.*

13 (16) *Just as important public purposes were*
14 *served by bringing electricity to the rural United*
15 *States and then by bringing telephone service to the*
16 *rural United States, so the United States would be*
17 *served by ensuring that the rural United States can*
18 *receive local television signals via satellite.*

19 (17) *It is in the public interest that the Rural*
20 *Utilities Service of the Department of Agriculture uti-*
21 *lize existing and new loan guarantee programs to*
22 *promote rural development by ensuring that the rural*
23 *United States has access to the signals of local tele-*
24 *vision stations by multichannel video providers.*

1 **SEC. 3. RURAL LOCAL TELEVISION SIGNALS.**

2 *The Rural Electrification Act of 1936 (7 U.S.C. 901*
 3 *et seq.) is amended by adding at the end the following:*

4 **“TITLE VI—RURAL LOCAL**
 5 **TELEVISION SIGNALS**

6 **“SEC. 601. DEFINITIONS.**

7 *“In this title:*

8 “(1) *ADMINISTRATOR.—The term ‘Adminis-*
 9 *trator’ means the Administrator of the Rural Utilities*
 10 *Service.*

11 “(2) *AFFILIATE.—The term ‘affiliate’ means any*
 12 *person or entity that controls, or is controlled by, or*
 13 *is under common control with, another person or en-*
 14 *tity.*

15 “(3) *BORROWER.—The term ‘borrower’ means*
 16 *any person or entity receiving a loan guarantee*
 17 *under this title.*

18 “(4) *COST.—*

19 “(A) *IN GENERAL.—The term ‘cost’ means*
 20 *the estimated long-term cost to the Government*
 21 *of a loan guarantee or modification thereof, cal-*
 22 *culated on a net present value basis, excluding*
 23 *administrative costs and any incidental effects*
 24 *on governmental receipts or outlays.*

25 “(B) *LOAN GUARANTEES.—For purposes of*
 26 *this paragraph the cost of a loan guarantee—*

1 “(i) shall be the net present value, at
2 the time when the guaranteed loan is dis-
3 bursed, of the estimated cash flows of—

4 “(I) payments by the Government
5 to cover defaults and delinquencies, in-
6 terest subsidies, or other payments; and

7 “(II) payments to the Govern-
8 ment, including origination and other
9 fees, penalties, and recoveries; and

10 “(ii) shall include the effects of changes
11 in loan terms resulting from the exercise by
12 the guaranteed lender of an option included
13 in the loan guarantee contract, or by the
14 borrower of an option included in the guar-
15 anteed loan contract.

16 “(C) *COST OF MODIFICATION.*—The cost of
17 the modification shall be the difference between
18 the current estimate of the net present value of
19 the remaining cash flows under the terms of a
20 loan guarantee contract, and the current esti-
21 mate of the net present value of the remaining
22 cash flows under the terms of the contract, as
23 modified.

24 “(D) *DISCOUNT RATE.*—In estimating net
25 present value, the discount rate shall be the aver-

1 *age interest rate on marketable Treasury securi-*
2 *ties of similar maturity to the cash flows of the*
3 *guarantee for which the estimate is being made.*

4 “(E) *FISCAL YEAR ASSUMPTIONS.*—When
5 *funds of a loan guarantee under this title are ob-*
6 *ligated, the estimated cost shall be based on the*
7 *current assumptions, adjusted to incorporate the*
8 *terms of the loan contract, for the fiscal year in*
9 *which the funds are obligated.*

10 “(5) *CURRENT.*—The term ‘current’ has the
11 *meaning given that term in section 250(c)(9) of the*
12 *Balanced Budget and Emergency Deficit Control Act*
13 *of 1985.*

14 “(6) *DESIGNATED MARKET AREA.*—The term
15 ‘designated market area’ has the meaning given that
16 term in section 122(j) of title 17, United States Code.

17 “(7) *LOAN GUARANTEE.*—The term ‘loan guar-

18 *antee’ means any guarantee, insurance, or other*
19 *pledge with respect to the payment of all or part of*
20 *the principal or interest on any debt obligation of a*
21 *non-Federal borrower to the Federal Financing Bank*
22 *or a non-Federal lender, but does not include the in-*
23 *surance of deposits, shares, or other withdrawable ac-*
24 *counts in financial institutions.*

1 “(8) *MODIFICATION.*—*The term ‘modification’*
2 *means any Government action that alters the esti-*
3 *mated cost of an outstanding loan guarantee (or loan*
4 *guarantee commitment) from the current estimate of*
5 *cash flows, including the sale of loan assets, with or*
6 *without recourse, and the purchase of guaranteed*
7 *loans.*

8 “(9) *COMMON TERMS.*—*Except as provided in*
9 *paragraphs (1) through (9), any term used in this*
10 *title that is defined in the Communications Act of*
11 *1934 (47 U.S.C. 151 et seq.) has the meaning given*
12 *the term in that Act.*

13 **“SEC. 602. LOAN GUARANTEES.**

14 “(a) *PURPOSE.*—*The purpose of this title is to enable*
15 *the Administrator to provide such loan guarantees as are*
16 *necessary to ensure improved access to the signals of local*
17 *television stations by multichannel video providers to all*
18 *households which desire such service in unserved and under-*
19 *served rural markets by December 31, 2006.*

20 “(b) *ASSISTANCE TO BORROWERS.*—*Subject to the ap-*
21 *propriations limitation under subsection (c)(2), the Admin-*
22 *istrator may provide loan guarantees to borrowers to fi-*
23 *nance projects to provide local television broadcast signals*
24 *by providers of multichannel video services including direct*
25 *broadcast satellite licensees and licensees of multichannel*

1 *multipoint distribution systems, to areas that do not receive*
 2 *local television broadcast signals over commercial for-profit*
 3 *direct-to-home satellite distribution systems. A borrower*
 4 *that receives a loan guarantee under this title may not*
 5 *transfer any part of the proceeds of the monies from the*
 6 *loans guaranteed under this program to an affiliate of the*
 7 *borrower.*

8 “(c) *UNDERWRITING CRITERIA; PREREQUISITES.*—

9 “(1) *IN GENERAL.*—*The Administrator shall ad-*
 10 *minister the underwriting criteria developed under*
 11 *subsection (f)(1) to determine which loans are eligible*
 12 *for a guarantee under this title.*

13 “(2) *AUTHORITY TO MAKE LOAN GUARANTEES.*—
 14 *The Administrator shall be authorized to guarantee*
 15 *loans under this title only to the extent provided for*
 16 *in advance by appropriations Acts.*

17 “(3) *PREREQUISITES.*—*In addition to meeting*
 18 *the underwriting criteria under paragraph (1), a*
 19 *loan is not eligible for a loan guarantee under this*
 20 *title unless—*

21 “(A) *the loan is made to finance the acqui-*
 22 *sition, improvement, enhancement, construction,*
 23 *deployment, launch, or rehabilitation of the*
 24 *means, including spectrum rights, by which local*
 25 *television broadcast signals will be delivered to*

1 *an area not receiving such signals over commer-*
2 *cial for-profit direct-to-home satellite distribu-*
3 *tion systems;*

4 *“(B) the proceeds of the loan will not be*
5 *used for operating expenses;*

6 *“(C) the total amount of all such loans may*
7 *not exceed in the aggregate \$1,250,000,000;*

8 *“(D) the loan does not exceed \$100,000,000,*
9 *except that 1 loan under this title may exceed*
10 *\$100,000,000, but shall not exceed \$625,000,000;*

11 *“(E) the loan bears interest and penalties*
12 *which, in the Administrator’s judgment, are not*
13 *unreasonable, taking into consideration the pre-*
14 *vailing interest rates and customary fees in-*
15 *curring under similar obligations in the private*
16 *capital market; and*

17 *“(F) the Administrator determines that tak-*
18 *ing into account the practices of the private cap-*
19 *ital markets with respect to the financing of*
20 *similar projects, the security of the loan is ade-*
21 *quate.*

22 *“(4) ADDITIONAL CRITERIA.—In addition to the*
23 *requirements of paragraphs (1), (2), and (3), a loan*
24 *for which a guarantee is sought under this title shall*

1 *meet any additional criteria promulgated under sub-*
2 *section (f)(1).*

3 “(d) *ADDITIONAL REQUIREMENTS.—The Adminis-*
4 *trator may not make a loan guarantee under this title*
5 *unless—*

6 “(1) *repayment of the loan is required to be*
7 *made within a term of the lesser of—*

8 “(A) *25 years from the date of its execution;*
9 *or*

10 “(B) *the useful life of the primary assets*
11 *used in the delivery of relevant signals;*

12 “(2) *the Administrator has been given the assur-*
13 *ances and documentation necessary to review and ap-*
14 *prove the guaranteed loans; and*

15 “(3) *the Administrator makes a determination*
16 *in writing that—*

17 “(A) *the applicant has given reasonable as-*
18 *surances that the assets, facilities, or equipment*
19 *will be utilized economically and efficiently;*

20 “(B) *necessary and sufficient regulatory ap-*
21 *provals, spectrum rights, and delivery permis-*
22 *sions have been received or will be obtained by*
23 *project participants to assure the financial feasi-*
24 *bility of the project; and*

1 “(C) *repayment of the loan can reasonably*
2 *be expected, including the use of an appropriate*
3 *combination of credit risk premiums and collat-*
4 *eral offered by the applicant to protect the Fed-*
5 *eral Government.*

6 “(e) *APPROVAL OF NTIA REQUIRED.—*

7 “(1) *IN GENERAL.—The Administrator may not*
8 *issue a loan guarantee under this title unless the Na-*
9 *tional Telecommunications and Information Admin-*
10 *istration consults with the Administrator and certifies*
11 *that the issuance of the loan guarantee is consistent*
12 *with subsection (a).*

13 “(2) *CERTIFICATION.—The Administrator shall*
14 *provide the appropriate information on each loan*
15 *guarantee application recommended by the Adminis-*
16 *trator to the National Telecommunications and Infor-*
17 *mation Administration for certification. If the Na-*
18 *tional Telecommunications and Information Admin-*
19 *istration fails to make the required determination*
20 *within 90 days after receiving the information from*
21 *the Administrator with respect to a particular loan*
22 *guarantee application, the certification shall be*
23 *deemed to have been granted.*

24 “(f) *REQUIREMENTS.—*

1 “(1) *IN GENERAL.*—Not later than 180 days
2 after the date of enactment of this title, the Adminis-
3 trator shall consult with an appropriate independent
4 consultant, including a public accounting firm, to de-
5 velop underwriting criteria relating to the issuance of
6 loan guarantees, appropriate collateral and cash flow
7 levels for the types of loan guarantees that might be
8 issued under this title, and such other matters as the
9 Administrator determines appropriate.

10 “(2) *AUTHORITY OF ADMINISTRATOR.*—In lieu of
11 or in combination with appropriations of budget au-
12 thority to cover the costs of loan guarantees as re-
13 quired under section 504(b)(1) of the Federal Credit
14 Reform Act of 1990, the Administrator may accept on
15 behalf of an applicant for assistance under this title
16 a commitment from a non-Federal source to fund in
17 whole or in part the credit risk premiums with re-
18 spect to the applicant’s loan. The aggregate of appro-
19 priations of budget authority and credit risk pre-
20 miums described in this paragraph with respect to a
21 loan guarantee may not be less than the cost of that
22 loan guarantee.

23 “(3) *CREDIT RISK PREMIUM AMOUNT.*—The Ad-
24 ministrator shall determine the amount required for

1 *credit risk premiums under this subsection on the*
2 *basis of—*

3 “(A) *the circumstances of the applicant, in-*
4 *cluding the amount of collateral offered;*

5 “(B) *the proposed schedule of loan disburse-*
6 *ments;*

7 “(C) *the borrower’s business plans for pro-*
8 *viding service;*

9 “(D) *financial commitment from the broad-*
10 *cast signal provider; and*

11 “(E) *any other factors the Administrator*
12 *considers relevant.*

13 “(4) *PAYMENT OF PREMIUMS.—Credit risk pre-*
14 *miums under this subsection shall be paid to an ac-*
15 *count established in the Treasury which shall accrue*
16 *interest and such interest shall be retained by the ac-*
17 *count. In addition, the Administrator may accept*
18 *credit risk premiums in the form of letters of credit*
19 *or other forms of non-cash instruments, which shall*
20 *not accrue interest. As obligations attached to a co-*
21 *hort of loans established under paragraph (5) are*
22 *being satisfied, credit risk premiums for the cohort,*
23 *and interest accrued thereon, which are not required*
24 *to mitigate losses shall be returned to the original*
25 *source on a pro rata basis.*

1 “(5) *COHORTS OF LOANS.*—*In order to maintain*
 2 *sufficient balances of credit risk premiums to ade-*
 3 *quately protect the Federal Government from risk of*
 4 *default, while minimizing the length of time the Gov-*
 5 *ernment retains possession of those balances, the Ad-*
 6 *ministrator in consultation with the Office of Man-*
 7 *agement and Budget shall establish cohorts of loans.*

8 “(g) *CONDITIONS OF ASSISTANCE.*—*A borrower shall*
 9 *agree to such terms and conditions as are sufficient, in the*
 10 *judgment of the Administrator to ensure that, as long as*
 11 *any principal or interest is due and payable on such obliga-*
 12 *tion, the borrower—*

13 “(1) *will maintain assets, equipment, facilities,*
 14 *and operations on a continuing basis;*

15 “(2) *will not make any discretionary dividend*
 16 *payments that reduce the ability to repay obligations*
 17 *incurred under this section; and*

18 “(3) *will remain sufficiently capitalized.*

19 “(h) *LIEN ON INTERESTS IN ASSETS.*—*Upon pro-*
 20 *viding a loan guarantee to a borrower under this title, the*
 21 *Administrator shall have liens which shall be superior to*
 22 *all other liens on assets of the borrower equal to the unpaid*
 23 *balance of the loan subject to such guarantee.*

24 “(i) *SUBORDINATION OR SHARING OF LIENS.*—*Not-*
 25 *withstanding subsection (h), at the request of a private lend-*

1 *er providing financing to the borrower for the purposes set*
2 *forth in subsection (a), the Administrator may offer—*

3 *“(1) to share the Government’s lien on the bor-*
4 *rower’s assets; or*

5 *“(2) to subordinate the Government’s lien on the*
6 *borrower’s assets.*

7 *“(j) PERFECTED INTEREST.—The Administrator and*
8 *the lender shall have a perfected security interest in those*
9 *assets of the borrower fully sufficient to protect the Adminis-*
10 *trator and the lender.*

11 *“(k) INSURANCE POLICIES.—In accordance with prac-*
12 *tices of private lenders, as determined by the Administrator,*
13 *the borrower shall obtain, at its expense, insurance suffi-*
14 *cient to protect the interests of the Federal Government, as*
15 *determined by the Administrator.*

16 *“(l) AUTHORIZATION OF APPROPRIATIONS.—For the*
17 *additional costs of the loans guaranteed under this title, in-*
18 *cluding the cost of modifying the loans as defined in section*
19 *502 of the Congressional Budget Act of 1974 (2 U.S.C.*
20 *661(a)), there are authorized to be appropriated for fiscal*
21 *years 2000 through 2006, such amounts as may be nec-*
22 *essary. In addition there are authorized to be appropriated*
23 *such sums as may be necessary to administer this title. Any*
24 *amounts appropriated under this subsection shall remain*
25 *available until expended.*

1 **“SEC. 603. ADMINISTRATION OF LOAN GUARANTEES.**

2 “(a) *APPLICATIONS.*—*The Administrator shall pre-*
3 *scribe the form and contents for an application for a loan*
4 *guarantee under section 602.*

5 “(b) *ASSIGNMENT OF LOAN GUARANTEES.*—*The holder*
6 *of a loan guaranteed under this title may assign the loan*
7 *guarantee in whole or in part, subject to such requirements*
8 *as the Administrator may prescribe.*

9 “(c) *MODIFICATIONS.*—*The Administrator may ap-*
10 *prove the modification of any term or condition of a loan*
11 *guarantee including the rate of interest, time of payment*
12 *of interest or principal, or security requirements, if—*

13 “(1) *the Administrator finds in writing that—*

14 “(A) *the modification is equitable and is in*
15 *the overall best interests of the United States;*

16 “(B) *consent has been obtained from the*
17 *borrower and the lender;*

18 “(C) *the modification is consistent with the*
19 *objective underwriting criteria developed in con-*
20 *sultation with an appropriate independent con-*
21 *sultant, including a public accounting firm,*
22 *under section 602(f);*

23 “(D) *the modification does not adversely af-*
24 *fect the Federal Government’s interest in the en-*
25 *tity’s assets or loan collateral; and*

1 “(E) the modification does not adversely af-
2 fect the entity’s ability to repay the loan; and

3 “(2) the National Telecommunications and In-
4 formation Administration does not object to the modi-
5 fication on the ground that it is inconsistent with the
6 certification under section 602(e).

7 “(d) *PRIORITY MARKETS.*—

8 “(1) *IN GENERAL.*—To the maximum extent
9 practicable, the Administrator shall give priority to
10 projects which serve the most underserved rural mar-
11 kets, as determined by the Administrator. In making
12 prioritization determinations, the Administrator shall
13 consider prevailing market conditions, feasibility of
14 providing service, population, terrain, and other fac-
15 tors the Administrator determines appropriate.

16 “(2) *PRIORITY RELATING TO CONSUMER COSTS*
17 *AND SEPARATE TIER OF SIGNALS.*—The Adminis-
18 trator shall give priority to projects that—

19 “(A) offer a separate tier of local broadcast
20 signals; and

21 “(B) provide lower projected costs to con-
22 sumers of such separate tier.

23 “(3) *PERFORMANCE SCHEDULES.*—Applicants
24 under this section shall enter into stipulated perform-
25 ance schedules with the Administrator.

1 “(4) *PENALTY.*—*In addition to any other au-*
2 *thority of the Administrator, the Administrator may*
3 *assess a borrower a penalty not to exceed 3 times the*
4 *interest due on the guaranteed loan, if the borrower*
5 *fails to meet its stipulated performance schedule. The*
6 *penalty shall be paid to the account established under*
7 *section 602.*

8 “(5) *LIMITATION ON CONSIDERATION OF MOST*
9 *POPULATED AREAS.*—*The Administrator shall not*
10 *provide a loan guarantee for a project that is pri-*
11 *marily designed to serve the 40 most populated des-*
12 *ignated market areas and shall take into consider-*
13 *ation the importance of serving rural markets that*
14 *are not likely to be otherwise offered service under sec-*
15 *tion 122 of title 17, United States Code, except*
16 *through the loan guarantee program under this title.*

17 “(e) *COMPLIANCE.*—*The Administrator shall enforce*
18 *compliance by an applicant and any other party to the loan*
19 *guarantee for whose benefit assistance is intended, with the*
20 *provisions of this title, regulations issued hereunder, and*
21 *the terms and conditions of the loan guarantee, including*
22 *through regular periodic inspections and audits.*

23 “(f) *COMMERCIAL VALIDITY.*—*For purposes of claims*
24 *by any party other than the Administrator, a loan guar-*
25 *antee shall be conclusive evidence that the underlying obli-*

1 *gation is in compliance with the provisions of the title, and*
 2 *that such obligation has been approved and is legal as to*
 3 *principal, interest, and other terms. Such a guarantee shall*
 4 *be valid and incontestable in the hands of a holder thereof,*
 5 *including the original lender or any other holder, as of the*
 6 *date when the Administrator granted the application there-*
 7 *fore, except as to fraud or material misrepresentation by*
 8 *such holder.*

9 “(g) *DEFAULTS.*—*The Administrator shall prescribe*
 10 *regulations governing a default on a loan guaranteed under*
 11 *this title.*

12 “(h) *RIGHTS OF THE ADMINISTRATOR.*—

13 “(1) *SUBROGATION.*—*If the Administrator au-*
 14 *thorizes payment to a holder, or a holder’s agent,*
 15 *under subsection (g) in connection with a loan guar-*
 16 *antee made under section 602, the Administrator*
 17 *shall be subrogated to all of the rights of the holder*
 18 *with respect to the obligor under the loan.*

19 “(2) *DISPOSITION OF PROPERTY.*—*The Adminis-*
 20 *trator may complete, recondition, reconstruct, ren-*
 21 *ovate, repair, maintain, operate, rent, sell, or other-*
 22 *wise dispose of any property or other interests ob-*
 23 *tained under this title in a manner that maximizes*
 24 *taxpayer return and is consistent with the public con-*
 25 *venience and necessity.*

1 “(i) *ACTION AGAINST OBLIGOR.*—*The Administrator*
 2 *may bring a civil action in an appropriate district court*
 3 *of the United States in the name of the United States or*
 4 *of the holder of the obligation in the event of a default on*
 5 *a loan guaranteed under this title. The holder of a guar-*
 6 *antee shall make available to the Administrator all records*
 7 *and evidence necessary to prosecute the civil action. The*
 8 *Administrator may accept property in full or partial satis-*
 9 *faction of any sums owed as a result of default. If the Ad-*
 10 *ministrator receives, through the sale or other disposition*
 11 *of such property, an amount greater than the aggregate of—*

12 “(1) *the amount paid to the holder of a guar-*
 13 *antee under subsection (g); and*

14 “(2) *any other cost to the United States of rem-*
 15 *edying the default, the Administrator shall pay such*
 16 *excess to the obligor.*

17 “(j) *BREACH OF CONDITIONS.*—*The Attorney General*
 18 *shall commence a civil action in a court of appropriate ju-*
 19 *risdiction to enjoin any activity which the Administrator*
 20 *finds is in violation of this title, regulations issued here-*
 21 *under, or any conditions which were duly agreed to, and*
 22 *to secure any other appropriate relief, including relief*
 23 *against any affiliate of the borrower.*

24 “(k) *ATTACHMENT.*—*No attachment or execution may*
 25 *be issued against the Administrator or any property in the*

1 *control of the Administrator prior to the entry of final judg-*
 2 *ment to such effect in any State, Federal, or other court.*

3 “(l) *INVESTIGATION CHARGE AND FEES.*—

4 “(1) *APPRAISAL FEE.*—*The Administrator may*
 5 *charge and collect from an applicant a reasonable fee*
 6 *for appraisal for the value of the equipment or facili-*
 7 *ties for which the loan guarantee is sought, and for*
 8 *making necessary determinations and findings. The*
 9 *fee may not, in the aggregate, be more than one-half*
 10 *of one percent of the principal amount of the obliga-*
 11 *tion.*

12 “(2) *LOAN ORIGINATION FEE.*—*The Adminis-*
 13 *trator may charge a loan origination fee.*

14 “(3) *USE OF FEES.*—*Fees collected pursuant to*
 15 *this subsection shall be credited to the account which*
 16 *administers the loan guarantee program under this*
 17 *title. Such fees shall be made available to the Admin-*
 18 *istrator without further appropriation and shall re-*
 19 *main available until expended.*

20 “(m) *ANNUAL AUDIT.*—*The Comptroller General of the*
 21 *United States shall annually audit the administration of*
 22 *this title and report the results of the audit to the Committee*
 23 *on Agriculture, Nutrition, and Forestry of the Senate and*
 24 *the Committee on Agriculture of the House of Representa-*
 25 *tives.*

1 “(n) *INDEMNIFICATION.*—*An affiliate of the borrower*
 2 *shall indemnify the Government for any losses it incurs as*
 3 *a result of—*

4 “(1) *a judgment against the borrower;*

5 “(2) *any breach by the borrower of its obliga-*
 6 *tions under the loan guarantee agreement;*

7 “(3) *any violation of the provisions of this title*
 8 *by the borrower;*

9 “(4) *any penalties incurred by the borrower for*
 10 *any reason, including the violation of the stipulated*
 11 *performance; and*

12 “(5) *any other circumstances that the Adminis-*
 13 *trator determines to be appropriate.*

14 “(o) *SUNSET.*—*The Administrator may not approve a*
 15 *loan guarantee under this title after December 31, 2006.*

16 **“SEC. 604. RETRANSMISSION OF LOCAL TELEVISION**
 17 **BROADCAST STATIONS.**

18 “A borrower shall be subject to applicable rights, obli-
 19 gations, and limitations of title 17, United States Code. If
 20 a local broadcast station requests carriage of its signal and
 21 is located in a market not served by a satellite carrier pro-
 22 viding service under a statutory license under section 122
 23 of title 17, United States Code, the borrower shall carry
 24 the signal of that station without charge and shall be subject
 25 to the applicable rights, obligations, and limitations of sec-

1 *tions 338, 614, and 615 of the Communications Act of*
2 *1934.”*

